

EXHIBIT C

ORIGINAL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - - x

MARK T. DUBLINO

Plaintiff

-vs-

SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE,
DEPUTY BRIAN THOMPSON, DEPUTY FRANK
GELSTER, SGT. MR. CROSS, SGT. MR. ROBINSON,
DEPUTY MR. P. GIARDINA, DEPUTY SHAWN WILSON

Defendants

- - - - - X

Civil Action No. 6:19-cv-6269-DGL

Deposition of Brian Thompson taken pursuant to
notice via videoconference on Wednesday, June 9, 2021
commencing at 10:08 a.m.

Reported by:

COMPUTER REPORTING SERVICE

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(No exhibits marked.)

1 B. Thompson - Examination by Mr. Modica

2 BRIAN THOMPSON

3 called herein as a witness, being duly sworn,

4 testified as follows:

5 EXAMINATION BY MR. MODICA:

6 Q. Good morning. As I indicated earlier, my
7 name is Steve Modica. I am the pro bono counsel for
8 Mark Thomas Dublino who has brought an action against
9 you and several of your colleagues at the Erie County
10 Holding Center.

11 I'm going to ask you a series of questions. I'm
12 going to ask that you answer them to the best of your
13 ability.

14 If you don't understand the questions it's
15 perfectly okay to ask me to rephrase them. I'd be
16 happy to do that.

17 This meeting is a little difficult. It's very
18 important we speak one at a time. So I'm going to be
19 careful about waiting until you're done before I ask
20 the next question and I will ask you to do the same
21 thing.

22 Okay?

23 A. Sounds good.

24 Q. Is it correct you are currently employed at
25 the Erie County Holding Center in the jail management

1 B. Thompson - Examination by Mr. Modica
2 division?

3 A. Correct.

4 Q. How long have you worked for them?

5 A. I'm starting my fourteenth year right now.
6 This past May I'm going into my fourteenth year.

7 Q. And during 2018 were you working for them?

8 A. Yes.

9 Q. And where were you performing your work in
10 2018 for them?

11 A. Within the jail management division within
12 the holding center.

13 Q. Where is the Erie County Holding Center
14 located?

15 A. 40 Delaware, Buffalo, New York, 14202.

16 Q. Were you working at the Erie County Holding
17 Center on the morning of March 9 of 2018?

18 A. Yes.

19 Q. What was your job assignment that day?

20 A. K-9.

21 Q. And would you describe generally what your
22 responsibilities were performing K-9 work at the
23 holding center?

24 A. On a daily basis my job is to search the
25 incoming visitors for the presence of narcotic odor

1 B. Thompson - Examination by Mr. Modica
2 with the dog prior to them entering the main visit room
3 for a contact visit.

4 Q. What was your shift that day if you remember,
5 again, March 9th, 2018?

6 A. Day shift, seven to three.

7 Q. Seven a.m. to three p.m., correct?

8 A. Correct, yes. I'm sorry.

9 Q. That's okay. Were you handling a particular
10 K-9 on that day, again, March 9th, 2018?

11 A. I was. Bili.

12 Q. Is Bili a male or female?

13 A. He's a male German shorthaired pointer.

14 Q. And if you recall about how long before
15 March 9th of 2018 had you been handling Bili?

16 A. Six, seven years.

17 Q. Tell me if you could if you recall Bili's
18 demeanor as of March 9th of 2018. What kind of dog was
19 he at that point if you remember?

20 A. Very calm, great demeanor, very -- not a
21 single thing bothers him.

22 He's just a very calm, cool, collected dog. He
23 doesn't have a care in the world.

24 Q. Okay. Do you recall whether you interacted
25 with Mark Dublino at any point before March 9th of

1 B. Thompson - Examination by Mr. Modica
2 2018?

3 A. Not really, no. I might have seen him in the
4 visit room prior a few times, but nothing that I could
5 say, yes, I had conversations with him or anything.

6 I've seen him in the visit room before prior.

7 Q. Okay. And certainly you interacted with him
8 on March 9th of 2018; is that correct?

9 A. Correct.

10 Q. And there's a video at least of part of your
11 interaction with Mr. Dublino on that day that I want to
12 show you, give you an opportunity to take a look at it.
13 I don't know if you've seen it.

14 Let me share my screen, and if you have any
15 difficulty seeing this -- do you mind if I call you
16 Deputy Thompson; is that okay?

17 A. Yeah, that's fine.

18 Q. Okay. So I'm going to -- can you see the
19 screen I've tried to share here?

20 A. I did for a second, but now it looks like --

21 Q. You know what? I moved it. That's my bad.
22 How's that?

23 A. Got it.

24 Q. Terrific. All right. So I'll represent to
25 you that this is a video that was produced by the

1 B. Thompson - Examination by Mr. Modica
2 County about this incident.

3 First let me start with, have you ever seen this
4 video before today?

5 A. I did, yes.

6 Q. Okay. And I'm not going to go through it in
7 a lot of detail now, but if at any point during your
8 testimony you want to refer to it it's perfectly okay.

9 Just let me know. I'll bring it up and we can play
10 it.

11 A. Okay.

12 Q. If you look at the screen it looks like
13 there's four boxes of videos so to speak. The upper
14 left says alpha hallway.

15 Can you tell me what that is?

16 A. The alpha hallway is the hallway that leads
17 from central control into that hallway.

18 On the left hand side of that screen there's the
19 elevators that take you to the different levels of the
20 jail.

21 Q. Terrific. Okay. And below that you see the
22 screen that seems to be designated Attorney Visit Sally
23 Port. Do you see that?

24 A. I do.

25 Q. Can you tell me what that depicts?

1 B. Thompson - Examination by Mr. Modica

2 A. So when an inmate has a visit with their
3 counsel, with their attorney, they're going to come in
4 through that hallway, come in through that door.

5 That sally port leads to the second door that you
6 can kind of see to the bottom right. That leads you to
7 the inmate side of the attorney room -- I'm sorry.
8 That would be the deputy side of the attorney room --
9 or I'm sorry. That's the inmate side.

10 That is the inmate side. I'm looking at it
11 backwards. That's the inmate side where they would go
12 in and come out.

13 Q. And then if you look at the top right part of
14 the screen there's a box entitled Attorney Visit A.
15 What does that show?

16 A. So attorney room A, what you're looking at -
17 that door - if you refer back to the attorney visit
18 sally port, that door on the bottom right, that's the
19 same door.

20 So the inmate would come in through that door and
21 going back to attorney visit A, the rooms on the right
22 hand side, those are all attorney rooms that the
23 inmates would come in to see their attorney.

24 Q. And, again, what we're looking at in this
25 corner attorney visit A is the inmate side not the

1 B. Thompson - Examination by Mr. Modica
2 attorney side, correct?

3 A. True. That would be where the inmates come
4 in and out of the alpha hallway.

5 Q. I note at this moment the attorney visit A
6 screen has nothing displayed, but when I move that up a
7 little bit, if you could generally tell me what that
8 shows.

9 Well, just wait until something comes up on the
10 screen there. I'm sorry.

11 A. No problem.

12 Q. So I paused it. So, again, the top right
13 attorney visit A you described that and what does the
14 bottom right attorney visit B show?

15 A. That's the same hallway. That's just a
16 camera further down the hallway it looks like, but that
17 would be the same hallway.

18 Visit room A would be I guess closer towards that
19 door. Visit room B would be closer towards the back --
20 the back side.

21 It's the same camera just a different angle.

22 Q. Same hallway, same inmate side of that room,
23 but just different views?

24 A. Correct, yeah.

25 Q. All right. So I'm going to start from the

1 B. Thompson - Examination by Mr. Modica
2 beginning and just show it to you.

3 I won't comment on it, but again, if at any point
4 you want to refer to this video please feel free to do
5 that. It's about three minutes long.

6 So I'm going to just shut up and play it.
7 (Deposition Exhibit A played.)

8 Q. Okay. So I'll note for the record that the
9 video stopped.

10 At this point, Deputy Thompson, were you able to
11 see the video?

12 A. I was, yes.

13 Q. Perfect. Okay. Is that video best as you
14 know complete as far as you know?

15 A. As far as I know, yes.

16 Q. And I recognize that you had left the scene
17 as depicted in the video for a period of time, but at
18 least as far as you can recall it's pretty complete?

19 A. Yes.

20 Q. Did you also prepare a memorandum about this
21 incident?

22 A. Yeah. I did, yes. A pink sheet, yes.

23 Q. Sure. All right. I want to show you what
24 has been marked as Deposition Exhibit B, and do you
25 recognize this document?

1 B. Thompson - Examination by Mr. Modica

2 A. All I have is like an email in front of me.

3 Q. I'm sorry. There we go.

4 A. Yup, I got it.

5 Q. I apologize. I will get this right at some
6 point.

7 Do you recognize Deposition Exhibit B?

8 A. I do.

9 Q. Did you prepare that document?

10 A. I did.

11 Q. And is that document complete the best that
12 you know?

13 A. Yes.

14 Q. And why did you prepare the document?

15 A. I was the first one to respond to it. So I
16 knew I was going to have to have some kind of
17 documentation. So I prepared -- of what I witnessed
18 and so I wrote that up.

19 Q. Okay. And when did you prepare it if you
20 recall?

21 A. I don't recall. Fairly soon after this had
22 happened. It wasn't very long after this had happened.
23 I had put the dog downstairs and got started on
24 this basically.

25 Q. And it's dated March 9th of 2018. Would that

1 B. Thompson - Examination by Mr. Modica

2 indicate to you that you actually prepared it on that
3 date?

4 A. It was, correct.

5 Q. And, again, if at any point you want to refer
6 to this document I'll make it available to you.

7 A. Okay. Thank you.

8 Q. Did you also prepare a Use of Force report
9 about this incident?

10 A. I did, yes.

11 Q. Okay. I want to show you what has been
12 marked as Deposition Exhibit C. Do you recognize that
13 document?

14 A. I do.

15 Q. What is it?

16 A. That is my Use of Force pertaining to myself
17 personally.

18 Q. And if you recall about when did you prepare
19 this?

20 A. That would have been done after I did my pink
21 sheet or my memorandum.

22 Q. So generally the memo was done first and the
23 Use of Force report was done second?

24 A. I believe so. Yes, I believe so.

25 Q. Why did you prepare that Use of Force report?

1 B. Thompson - Examination by Mr. Modica

2 A. Because I had to physically grab Mr. Dublino
3 out of the room. So I just assumed a Use of Force was
4 going to have to be done.

5 Q. Tell me about that. Is it your understanding
6 if a deputy has any physical contact with an inmate
7 that that's something they need to report in some
8 fashion?

9 A. That I don't know. I don't -- I just knew
10 that this particular incident I was going to have to --
11 I was going to have to fill one out. So --

12 Q. All right. What is a 10-99 called?

13 A. It's an officer needs assistance.

14 Q. To your knowledge what are the
15 responsibilities of deputies, for example, if they get
16 a 10-99 call?

17 A. To respond to that location who is available.

18 Q. And I think you said 10-99 is an officer is
19 in distress; is that correct?

20 A. Correct.

21 Q. Is there a code for an altercation between a
22 person in custody and their lawyer, for example?

23 A. Not that I know of, no.

24 Q. How were you informed of the 10-99 call on
25 March 9th, 2018?

1 B. Thompson - Examination by Mr. Modica

2 A. If I remember correctly, it was broadcast
3 over the PA system and it was also broadcast via a
4 radio.

5 Q. And "a radio" meaning a radio that was on
6 your body?

7 A. Yeah, a radio that we carry. I'm sorry.

8 Q. And the PA system is available in a broader
9 sense in the building itself?

10 A. Through every speaker in the building. It's
11 what they call an all call.

12 Q. Where were you when you got the call on the
13 morning of March 9th?

14 A. I had literally just taken Bili outside to
15 give him a break, take him outside.

16 I was approaching the central sally port door when
17 it was called on the radio. So from the central sally
18 port door to the visit room was not very far.

19 So I responded because I was right there.

20 Q. And Bili you said was with you when you got
21 the 10-99 call on March 9th, correct?

22 A. Correct.

23 Q. And where did that call direct you to go?

24 A. To attorney room B.

25 Q. And what action if any did you take after you

1 B. Thompson - Examination by Mr. Modica
2 got the call?

3 A. I just immediately ran down the alpha hallway
4 and went to that door and walked through the doors.

5 Q. And I think if I recall at least the video
6 depicted shows you kind of running down the hallway
7 with Bili approaching the sally port door; is that
8 accurate?

9 A. Correct.

10 Q. And then after you got through the sally port
11 door toward the attorney conference room area you were
12 on the inmate side, correct?

13 A. Correct. Where the inmates would come
14 through, yes.

15 Q. And it looks to me from the video that you
16 were the first person to arrive at the attorney
17 conference room.

18 A. Correct.

19 Q. And what did you see when you got there?

20 A. When I approached attorney room 3
21 Mr. Terranova had made a statement, "I was just
22 assaulted by inmate Dublino. I want to press charges."
23 His face was visibly swelled. It almost looked
24 like he'd been pepper sprayed. That's the only way I
25 could describe it.

1 B. Thompson - Examination by Mr. Modica

2 His eyes were already welling up and his face was
3 swollen.

4 Q. So that's what you at least heard from
5 Mr. Terranova and what you saw of him.

6 Did you hear or see anything of Mr. Dublino at that
7 point when you first arrived?

8 A. No.

9 Q. And do you recall whether you said anything
10 when you first arrived?

11 A. I don't know. I don't recall.

12 Q. I'll represent to you that there's at least
13 some statement by a witness that alleges that you said,
14 "What the fuck are you doing" and that you yelled
15 repeatedly to Dublino, "Get on the fucking ground. Get
16 on your stomach."

17 First, I apologize for the language, but I want to
18 ask you, do you recall making any statements of that
19 nature?

20 A. When I grabbed him out of the room I told him
21 to get on his knees first which he complied and then to
22 get on his stomach.

23 I don't recall saying anything prior to him, no.

24 Q. Let's just talk about your physical contact
25 with him which you identify in your report.

1 B. Thompson - Examination by Mr. Modica

2 If I understand it, initially once you arrived you
3 took your right hand and you grabbed Mr. Dublino by his
4 shirt and pulled him out of the room.

5 Is that accurate?

6 A. Correct.

7 Q. And tell me about your left hand. What was
8 going on with your left hand at that point?

9 A. I had my dog Bili's leash in my left hand.

10 Q. And I believe your testimony was you ordered
11 him to sit down. Did he comply with that --

12 A. He did.

13 Q. -- order?

14 A. He did.

15 Q. And then I believe you said you ordered him
16 to lay face down; is that correct?

17 A. Correct.

18 Q. Did he comply with that order?

19 A. He did.

20 Q. And then if I understood correctly, you used
21 your right hand to apply pressure until the response
22 team arrived; is that correct?

23 A. Correct.

24 Q. And tell me where did you place your right
25 hand on Mr. Dublino's body?

1 B. Thompson - Examination by Mr. Modica

2 A. I want to say the middle of his back. I
3 don't recall, but I want to say the middle of his back.

4 Q. While you're having this physical contact
5 with Mr. Dublino does he say anything to you?

6 A. I don't recall. I don't believe so.

7 Q. And when he was laying face down and you had
8 your hands on his back did he resist at all?

9 A. Not with me, no.

10 Q. Did Mr. Dublino at any point while you had
11 physical contact with him complain that he was unable
12 to breathe?

13 A. No.

14 Q. Now, at some point Mr. Dublino was put in
15 handcuffs. Were you present when that happened?

16 A. I was not, no.

17 Q. I accept that testimony. I have some general
18 questions about when people are handcuffed that if you
19 can answer, great. If you can't, that's fine.

20 Is there a way - a specific way - that people are
21 supposed to be handcuffed?

22 A. I mean, I guess in a perfect world you would
23 want the key holes facing out, but -- I mean, I guess
24 there's probably no exact way or perfect way to
25 handcuff somebody.

1 B. Thompson - Examination by Mr. Modica

2 I personally myself don't carry handcuffs on me so
3 I don't know who handcuffed inmate Dublino. How it was
4 done, you know, that I don't know.

5 But I guess to answer your question there's
6 probably no perfect way of doing it.

7 Q. When you say, "keyholes out" -- first of all,
8 is someone typically handcuffed with their hands in
9 front of them or behind them?

10 A. Typically here we try to cuff everybody from
11 behind.

12 There are -- inmates that go to court, for
13 instance, are cuffed in the front. That's just -- I
14 don't know if every place is different, but the
15 keyholes I'm talking about, when you have your cuff
16 key, the key holes facing out so you're not having to
17 dig around to try to find the keyhole to uncuff
18 someone.

19 Q. So would that typically mean -- a person
20 being handcuffed behind their back, would their palms
21 be facing away from the center of their body or towards
22 the center of their body?

23 I apologize if I'm not explaining that very well.
24 Do you understand what I'm saying?

25 A. Yeah. So it would be away from them.

1 B. Thompson - Examination by Mr. Modica

2 Q. Okay. Ordinarily they would be cuffed with
3 their hands behind their back, but their palms would be
4 facing away from the center of their body?

5 A. Correct.

6 Q. And I think if I understood you correctly the
7 handcuffs -- the keyhole so that you can release them
8 ultimately from those handcuffs would be on the outside
9 for easier access?

10 A. Correct.

11 Q. All right. Thank you. Can you explain to
12 me, Deputy Thompson, why did you use force on Mr.
13 Dublino on March 9th, 2018?

14 A. When I approached the door, Mr. Terranova's
15 face was visibly swollen. So it was my recollection
16 that an assault had taken place and I was further
17 trying to prevent something else from possibly
18 happening.

19 Q. And that was initially in grabbing him,
20 ultimately in holding him down. What was the purpose
21 of the force you used in holding him down until
22 the response team arrived?

23 A. Just simply that because I knew a response
24 team was coming.

25 At the end of the day I have one hand tied up with

1 B. Thompson - Examination by Mr. Modica
2 the dog. So if something happens and he gets up and
3 comes after me, I literally have one hand to defend
4 myself.

5 Q. And is Bili trained to protect you?

6 So let's say, for example, the interaction with
7 Mr. Dublino did not go the way it did and let's say he
8 started to strike you.

9 Is Bili trained to attack someone who is attacking
10 you?

11 A. No, no.

12 He's retired now. He was a single purpose
13 narcotics detection dog. His only job was to sniff
14 narcotics.

15 He was not done on handler protection. He wasn't
16 done on tracking. He had one job and that was to sniff
17 out narcotics.

18 Q. Now, some of Bili's interaction or presence
19 is depicted in the video, but some is not so I'll ask
20 you some questions about that.

21 It looked to me like you continued to hold Bili in
22 your left hand throughout this whole interaction with
23 Mr. Dublino; is that correct?

24 A. Correct.

25 Q. How did Bili react while you were having this

1 B. Thompson - Examination by Mr. Modica

2 interaction with Dublino -- or did he react I guess is
3 the question.

4 A. He really didn't react. When I pulled inmate
5 Dublino out of the room the dog was standing there.

6 He didn't do anything. He didn't bark. He didn't
7 do anything.

8 Q. At any point in your presence did Bili bite
9 Mr. Dublino?

10 A. No.

11 Q. At any point in your presence did Bili
12 scratch Mr. Dublino?

13 A. No.

14 Q. At any point did you see Bili have any
15 physical contact with Mr. Dublino?

16 A. No.

17 Q. At any point during your interaction with Mr.
18 Dublino that morning did you lose control of your
19 leash?

20 A. Never, no.

21 Q. Now, from the time you arrived at the
22 attorney conference room until Dublino was removed by
23 the response team, did you hear Mr. Terranova say
24 anything other than what you told us earlier?

25 A. I did not, no.

1 B. Thompson - Examination by Mr. Modica

2 Q. There was some report he said -- told
3 someone - Mr. Terranova that is - "Kick his ass."

4 A. I don't recall that, no.

5 Q. There was a period of time when you had Mr.
6 Dublino down. You had your hands on his back before
7 the response team came.

8 Did you give any thought to radioing people and
9 saying, "You know, I've got this under control. Things
10 are good" or what were your thoughts at that point if
11 anything?

12 A. No.

13 Our policy - I don't know if it's per a state
14 policy - when a 10-99 is called a sergeant is asked to
15 radio central control that either, one, it's a false
16 alarm, or two, you know, clear movement or -- I don't
17 have the authorization to say, "Hey, I'm all set, I
18 don't need help."

19 That's for a sergeant or higher.

20 Q. I'm somewhat familiar with the levels of
21 authority, but it's fair to say that sergeants at least
22 hold a higher rank than you do as a deputy; is that
23 fair?

24 A. Correct, yeah.

25 Q. The response team then removed inmate Dublino

1 B. Thompson - Examination by Mr. Modica
2 from the attorney conference room area. Where did they
3 take him if you know?

4 A. I don't know. I would assume medical, but I
5 don't know.

6 Q. And what did you do after the response team
7 arrived?

8 A. After the response team arrived, if you can
9 remember the video, I backed out of it within twenty,
10 twenty-five seconds, thirty seconds.

11 There was more than enough people there. I just
12 backed out and that was it.

13 Q. And if you recall, where did you go after you
14 backed out?

15 It does show you walking back out the alpha
16 hallway, but it doesn't show where you went from there.

17 A. I walked out the alpha hallway, walked into
18 central control and came back out into the alpha
19 hallway in case there was something they needed from
20 me, and I was intercepted by another deputy as you can
21 see on the video and I put Bili downstairs and started
22 my paperwork and that's it.

23 Q. I want to ask you about some of the members
24 of the response team and whether you saw any of their
25 actions during it and a lot of this is based on

1 B. Thompson - Examination by Mr. Modica
2 allegations that my client has made. So if you know
3 about them, great. If you don't know about them,
4 great.

5 I think it might be helpful to bring the video up
6 so you can identify if you're able to who those
7 deputies are. So I'm going to bring the video up.

8 All right. Are you able to see the screen again?

9 A. I am, yes.

10 Q. All right. So first let me ask you about
11 Sergeant Justin Biegaj and I may be mispronouncing his
12 name.

13 A. Biegaj, yes.

14 Q. First of all, is he depicted in any way on
15 the video?

16 A. Right now, no.

17 Are you playing it?

18 Q. I'm not playing it now, but generally in your
19 recollection from watching the video is he depicted in
20 it?

21 A. I believe so, yes.

22 Q. All right. So I'm going to play the video
23 and if you could tell me when he first comes into the
24 screen that would be helpful to me.

25 I'll start it now.

1 B. Thompson - Examination by Mr. Modica

2 (Deposition Exhibit A played.)

3 A. Stop it right there. That's Sergeant Biegaj
4 right there. If you back it up the first one through
5 the door would be Sergeant Biegaj.

6 Q. So the first one through the door?

7 A. Right there.

8 Q. The gentleman I'm circling right here; is
9 that correct?

10 A. Correct.

11 Q. Okay. Thanks. And, again, if you want me to
12 show you more of the video I'd be happy to. I just
13 want to know who he is.

14 Mr. Dublino alleged that Sergeant Biegaj stomped
15 and stepped on him while he was on the ground targeting
16 his head and back.

17 First of all, did you observe Sergeant Biegaj's
18 conduct when the response team arrived?

19 A. I did not, no.

20 Q. All right. And Mr. Dublino also alleges that
21 Sergeant Biegaj put his knee on Mr. Dublino's back. Is
22 that something you saw in any way, shape or form?

23 A. I did not, no.

24 Q. And the video - and I'll run it through - it
25 doesn't obviously depict all the behavior, all of the

1 B. Thompson - Examination by Mr. Modica

2 actions in that hallway at the time; is that fair?

3 A. I mean, the video showed what happened. I
4 don't control the video so I don't know what more can
5 be shown I guess.

6 Q. I guess what I'm asking you -- let me run it
7 up and I can give you a better example.

8 (Deposition Exhibit A played.)

9 Q. Let me pause for a second. Is this Sergeant
10 Biegaj right here?

11 A. No. That's Sergeant McCloud. I don't know
12 where -- I don't know if you -- attorney room visit B
13 you see me on the right hand side?

14 Q. This is you right here, correct?

15 A. Only because I'm bald and I know that.
16 Across from me that looks like Sergeant Biegaj right
17 there.

18 Q. Right there?

19 A. I believe so.

20 If you let it play I could probably see the face,
21 but it kind of looks like Sergeant Biegaj right there.

22 Q. Right now we're at the video of 10:23 a.m.
23 and 2.877 seconds.

24 Is it fair to say that -- well, let me ask you
25 this: Based on you looking at this still at the

1 B. Thompson - Examination by Mr. Modica
2 moment, where is Mr. Dublino?

3 A. He would be probably just below me or
4 somewhere in that area I would guess.

5 Q. And the video unfortunately just does not
6 show him, correct?

7 A. Correct.

8 Q. And I think that was my point earlier that
9 the video, although helpful, doesn't show every angle
10 or exactly where Mr. Dublino was and everyone else in
11 that interaction. Fair?

12 A. Yeah. I see what you're talking about now.
13 Yeah.

14 Q. Let me ask you about Sergeant Robert Dee and
15 Deputy Shawn Wilson in what I've stopped right now.

16 Can you see their faces?

17 A. I cannot see their faces, no.

18 Q. Why don't I run --

19 A. The alpha hallway video, that first video if
20 I remember correctly, Sergeant Dee would have been the
21 second person behind Sergeant Biegaj.

22 Q. All right. Let's run it back. I'm
23 restarting it and you tell me when you'd like me to
24 stop.

25 (Deposition Exhibit A played.)

1 B. Thompson - Examination by Mr. Modica

2 Q. While we're here I'm looking at the alpha
3 hallway at 10:22:31.122 seconds. Who is this
4 gentleman?

5 A. That is Captain Galinski I believe.

6 Q. Thank you.

7 (Deposition Exhibit A played.)

8 A. Okay. Stop it. Let it play a couple of
9 seconds or a couple -- yeah.

10 Okay. So the first one at the door is Sergeant
11 Biegaj. Behind him would be Sergeant Dee and then
12 behind Sergeant Dee that looks like Deputy Wilson.

13 Q. Is this Sergeant Dee right here?

14 A. Yeah. It looks like Sergeant Dee. I'm just
15 waiting to see the chevron on the side of his arm. If
16 there's A Chevron that's Sergeant Dee.

17 Q. This gentleman right here?

18 A. Correct, yeah. I believe that's Deputy
19 Wilson.

20 Q. Deputy Shawn Wilson?

21 A. Correct.

22 Q. I will play it forward.

23 A. No. That's correct, those are -- that's the
24 three.

25 Q. I want to ask you about Sergeant Dee and

1 B. Thompson - Examination by Mr. Modica
2 Deputy Wilson.

3 Mr. Dublino alleges that they grabbed his arms and
4 his hands and they bent and twisted them in abnormal
5 positions with extreme pressure I think related to the
6 handcuffs.

7 You testified earlier you were not present when
8 anyone from the response team handcuffed him; is that
9 right?

10 A. Yeah. I'm a hundred percent sure I was not
11 present during the handcuffing.

12 I know I didn't handcuff him. I'm pretty sure I
13 was not there when they handcuffed him.

14 Q. And I'll represent to you - and we can play
15 it if you'd like - in the video it looks like from the
16 time you bring Mr. Dublino to the ground until he is
17 lifted up by the response team it's about a minute and
18 twenty seconds.

19 Can you tell me if you know roughly how long does
20 it take to put handcuffs on someone who's not
21 resisting?

22 Is it more or less time do you think?

23 A. I mean, my guess would be less time, but I
24 don't know.

25 Q. And, again, I think your testimony was you

1 B. Thompson - Examination by Mr. Modica

2 weren't present when anyone handcuffed him anyway,
3 correct?

4 A. Correct. I believe so, yes.

5 Q. So tell me about Sergeant Cross. That would
6 be Sergeant Matthew Cross, correct?

7 A. Correct. He would be in that first video in
8 the alpha hallway. He's the person to the far left.

9 Q. This gentleman right here?

10 A. Correct.

11 Q. So --

12 A. I believe he's with Buffalo PD now.

13 Q. All right. So your understanding is that
14 he's a member of the Buffalo Police Department. He's
15 not a member of the Erie County Sheriff's Office?

16 A. He's definitely not with us any more. I'm
17 fairly sure he's with Buffalo, but I could be wrong.

18 Q. Do you know if he was employed with the Erie
19 County Sheriff's Office on March 9th of 2018?

20 A. I would assume he was, yes.

21 Q. And did you have the opportunity to observe
22 Sergeant Cross in his interactions with Dublino in that
23 hallway on March 9th of 2018?

24 A. I did not, no.

25 Q. I want to ask you about any interactions

1 B. Thompson - Examination by Mr. Modica
2 between Deputy Frank Gelster, Sergeant Jack Robinson
3 and Deputy Peter Giardina and Mr. Dublino.

4 Did you observe any interactions between them and
5 my client in the hallway on March 9th of 2018?

6 A. I did not, no.

7 Q. Now, did there come a time when you took some
8 pictures of Mr. Dublino after this incident?

9 A. Not me personally, no.

10 Q. Okay. Do you know who took those pictures?

11 A. I don't know.

12 MR. MODICA: I just want to take a break for
13 one moment and see if there's anything else I need to
14 cover and I'll be done. So thanks for your patience.

15 THE WITNESS: No problem.

16 (Recess taken.)

17 Q. At any point, Deputy Thompson, did Mr.
18 Dublino complain of pain in your presence?

19 A. No.

20 MR. MODICA: All right. I have no further
21 questions. I appreciate your coming in today and
22 unless Erin has anything, you're excused.

23 THE WITNESS: Thank you. I appreciate it.

24 MS. MOLISANI: Have a nice day.

25 MR. MODICA: Be well. Thanks.

B. Thompson - Examination by Mr. Modica

* * *

REPORTER CERTIFICATE

I, Shari L. Vitalone, do hereby certify that I did
report in stenotype machine shorthand the proceedings
held in the above-entitled matter;

Further, that the foregoing transcript is a true
and accurate transcription of my said stenographic
notes taken at the time and place hereinbefore set
forth.

Dated 7/6/2021
at Rochester, New York

s/ Shari L. Vitalone

Shari L. Vitalone

B. Thompson - Examination by Mr. Modica

WITNESS CERTIFICATE

ORIGINAL

STATE OF)

COUNTY OF)

I, Brian Thompson, do hereby certify that I have read the transcript of my testimony as taken under oath on Wednesday, June 9, 2021, and that said transcript is a true, complete and correct record of what was asked, answered and said during said deposition, and that the answers on record therein, and as may be modified in conformity with the attached errata sheet, are true and correct.

Subscribed and sworn to before me

this _____ day of _____, 2021

Notary Public

1 B. Thompson - Examination by Mr. Modica

2 In the Matter of:

MARK T. DUBLINO

3 Plaintiff

-vs-

4 SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE,

DEPUTY BRIAN THOMPSON, DEPUTY FRANK

5 GELSTER, SGT. MR. CROSS, SGT. MR. ROBINSON,

DEPUTY MR. P. GIARDINA, DEPUTY SHAWN WILSON

6 Defendants

Civil Action No. 6:19-cv-6269-DGL

7

8 Errata sheet for the deposition of Brian Thompson taken

9 on Wednesday, June 9, 2021

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